

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADASFR Investments Pool 1, LLC,  
Plaintiff

v.

The Bank of New York Mellon  
Defendant

Case No. 2:22-cv-001802-CDS-NJK

Order Granting Partial Motion to Dismiss  
[ECF No. 10]

This removed lawsuit arises out of the foreclosure proceedings on a property located in Clark County, Nevada. *See* Compl., ECF No. 1-1. On January 3, 2023, defendant Bank of New York Mellon (BoNYM) filed a partial motion to dismiss plaintiff SFR Investments Pool 1, LLC's claim for quiet title, seeking to expunge the lis pendens recorded against the property. Mot. Dismiss, ECF No. 10. The parties filed a stipulation to extend the time for SFR to respond to the pending motion (ECF No. 12), and I granted SFR until February 7, 2023, to file a response. ECF No. 13. As of the date of this order, SFR has not filed an opposition to defendant's motion. For the reasons set forth herein, I hereby grant BoNYM's partial motion to dismiss.

**I. Discussion**

Public policy favors disposition of cases on their merits. *See Hernandez v. City of El Monte*, 138 F.3d 393, 399 (9th Cir. 1998). The Ninth Circuit has held that unlike with motions for summary judgment, a district court is not required to examine the merits of an unopposed motion to dismiss before granting it. *Ghazali v. Moran*, 46 F.3d 52, 54 (9th Cir. 1995); *Wystrach v. Ciachurski*, 267 Fed. App'x 606, 609 (9th Cir. 2008) (the Ninth Circuit "refused to extend to motions to dismiss the requirement that a district court examine the merits of an unopposed motion for summary judgment before summarily granting it pursuant to a local rule."). So I

1 exercise that discretion here and grant BoNYM's motion under this district's local rules, which  
2 provide that a party's failure to file points and authorities in response to any motion constitutes  
3 consent to the granting of the motion. *See* LR 7-2(d).

4 **II. Conclusion**

5 IT IS HEREBY ORDERED that defendant's partial motion to dismiss [ECF No. 10] is  
6 **GRANTED**. Plaintiff's first cause of action is dismissed with prejudice.

7 IT IS FURTHER ORDERED that the notice of lis pendens recorded on August 24, 2022,  
8 in the real property records of Clark County, Nevada, as Book and Instrument number  
9 20220824-0001787, against the real property commonly known as 3609 Julia Waldene Court,  
10 Las Vegas, Nevada 89129, Assessor's Parcel Number 138-09-224-015, is hereby **CANCELED**,  
11 **DISCHARGED**, AND **EXPUNGED**.

12 Dated: February 27, 2023

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15 Cristina D. Silva  
16 United States District Judge  
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